

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the adoption of New)	NOTICE OF PROPOSED
Rule I pertaining to permits for dog)	ADOPTION
training)	
)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) proposes to adopt the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than May 26, 2017, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I PERMIT TO TRAIN DOGS IN UPLAND GAME BIRD NESTING AREAS (1) For purposes of this rule, the following definitions apply:

(a) "bird nesting area" means any area within the state which the targeted game bird(s) could make a reasonable attempt to successfully produce a nest;

(b) "game preserve" means an area that is owned and managed by the state or federal natural agency for the purposes of game protection and propagation;

(c) "management area" means any property managed by the state or federal natural agency for the purposes of maintaining wildlife habitat, wildlife propagation or public hunting access;

(d) "open fields" means any area of natural surroundings where wildlife may naturally occur and may include bird nesting areas, management areas, or game preserves.

(2) A person wishing to train dogs in open fields must apply for a permit by filing an application on a form provided by the department at the regional office in the region where the person will conduct such activity.

(3) Permits to train dogs in open fields expire September 1 of each year.

(4) Permit holders must follow the terms and conditions set forth in the permit.

AUTH: 87-4-913, MCA

IMP: 87-4-915, MCA

REASON: In recent years, the department has received both written and verbal complaints regarding massive dog training occurrences, primarily in Eastern Montana on both private and public ground. The dog training that has been documented includes as many as 60 dogs and also includes the use of horses. This happens in the months prior to hunting season and has had negative effects on the local bird populations and has decreased opportunity for the hunting public.

The Fish and Wildlife Commission was also approached by bird hunters who were noticing a large decrease in the available birds during the hunting season. The commission in turn asked the department to do something to curtail the large-scale dog training.

MCA 87-4-915 (5)(a) Dogs may be trained in open fields at any time without permission of the director only if:

- (i) live game birds are not killed or captured during training; and
- (ii) the training is more than 1 mile from any bird nesting or management area or game preserve.

The language in the statute indicates that permission from the director is needed to train dogs in bird nesting areas, management areas, or game preserves. The statute does not describe the mechanism by which an individual may attain permission nor does it define what bird nesting areas, management areas, or game preserves are. The language in the proposed rule will provide for that and help define a permitting system for the activities in question.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Enforcement Division, Attn: Mike Lee, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail FWPDogTraining@mt.gov, and must be received no later than June 9, 2017.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Mike Lee at the above address no later than May 26, 2017.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be greater than 25 persons based on the number of people in Montana who bird hunt with bird dogs.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Aimee Hawkaluk
Aimee Hawkaluk
Rule Reviewer

/s/ Martha Williams
Martha Williams
Director
Department of Fish, Wildlife and Parks

Certified to the Secretary of State May 1, 2017.